

# COTTONWOOD HEIGHTS

## RESOLUTION No. 2013-29

### A RESOLUTION APPROVING ENTRY INTO AN INTERLOCAL AGREEMENT WITH SALT LAKE COUNTY FOR HOMELESS SERVICES PROGRAM

**WHEREAS**, the Interlocal Cooperation Act, UTAH CODE ANN. §11-13-101 *et. seq.* (the “*Interlocal Cooperation Act*”), provides that any two or more public agencies may enter into agreements with one another for joint or cooperative action following the adoption of an appropriate resolution by the governing body of each participating public agency; and

**WHEREAS**, Salt Lake County (the “*County*”) and the city of Cottonwood Heights (the “*City*”) are public agencies for purposes of the Interlocal Cooperation Act; and

**WHEREAS**, the County and the City desire to participate in a multi-jurisdictional effort proposed by the Salt Lake County Council of Governments to create and fund an ongoing, regional program (the “*Program*”) for homeless services in the greater Salt Lake County metropolitan area; and

**WHEREAS**, the City and the County jointly desire to enter into an interlocal agreement (the “*Agreement*”) whereunder the parties will cooperate in creating and funding the Program on the terms and conditions specified in the Agreement; and

**WHEREAS**, the City’s municipal council (the “*Council*”) met in regular session on 25 June 2013 to consider, among other things, approving the City’s entry into the Agreement; and

**WHEREAS**, the Council has reviewed the form of the Agreement, a photocopy of which is annexed hereto; and

**WHEREAS**, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to approve the City’s entry into the Agreement as proposed;

**NOW, THEREFORE, BE IT RESOLVED** by the city council of the city of Cottonwood Heights that the attached Agreement with the County be, and hereby is, approved, and that the City’s mayor and recorder are authorized and directed to execute and deliver the Agreement on behalf of the City.

This Resolution, assigned no. 2013-29, shall take effect immediately upon passage.

PASSED AND APPROVED this 25<sup>th</sup> day of June 2013.

**COTTONWOOD HEIGHTS CITY COUNCIL**



*Linda W. Dunlavy*  
Linda W. Dunlavy, Recorder

By *Kelvyn H. Cullimore, Jr.*  
Kelvyn H. Cullimore, Jr., Mayor

**VOTING:**

Kelvyn H. Cullimore, Jr.	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael L. Shelton	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael J. Peterson	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Tee W. Tyler	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

**DEPOSITED** in the office of the City Recorder this 25<sup>th</sup> day of June 2013.

**RECORDED** this 26 day of June 2013.

600411.1

INTERLOCAL COOPERATION AGREEMENT

between

SALT LAKE COUNTY

and

COTTONWOOD HEIGHTS

THIS AGREEMENT is made and entered into this 25<sup>th</sup> day of June 2013, by and between SALT LAKE COUNTY, a body corporate and politic of the State of Utah ("COUNTY"), and COTTONWOOD HEIGHTS, a municipal corporation of the State of Utah (the "CITY"). COUNTY and CITY may collectively be referred to as the "Parties".

RECITALS

- 1) WHEREAS, Utah Code Ann. §11-13-202 provides that any two or more public agencies may enter into an agreement with one another for joint or cooperative actions; and
- 2) WHEREAS, the COUNTY and the CITY are "public agencies" as contemplated in Utah Code Ann. § 11-13-101, *et seq.* - Interlocal Cooperation Act; and
- 3) WHEREAS, the COUNTY and the CITY are desirous to take part in a multi-jurisdictional effort proposed by the Salt Lake Council of Governments (COG) to create and fund an ongoing, regional program for homeless services in the greater Salt Lake County metropolitan area; and
- 4) WHEREAS, it is beneficial for the COUNTY, the CITY and their respective citizens that the Parties cooperate in accomplishing the foregoing;

5) NOW, THEREFORE, in consideration of the mutual promises contained within this Agreement, the Parties hereby agree as follows:

#### AGREEMENT

##### I. Scope of Services

###### a. COUNTY Agrees:

- i. Participate in the "Salt Lake Valley Council of Governments Homeless Services Fund" program (hereinafter "Fund").
- ii. Establish and administer a special revenue account for the Fund.
- iii. Follow COG recommendations in expending monies contributed to the Fund.
- iv. Expend all monies received from the CITY under this Agreement as agreed to herein, and shall promptly reimburse the CITY for any such funds not so expended. The COUNTY shall provide the CITY a detailed accounting of all funds received from the CITY upon request of the CITY.
- v. Consult with representatives of the CITY and other participating local jurisdictions through the Council of Governments in making decisions concerning the administration of the Fund.

###### b. CITY Agrees:

- i. Participate in the Fund.
- ii. Make an annual contribution to COUNTY of \$0.35 per each resident of the City residing there on January 1 of each year of this Agreement to the special revenue account described in this section.

- iii. Consult with representatives of the COUNTY and other participating local jurisdictions through the Council of Governments in making decisions concerning the administration of the Fund.

c. The Parties Mutually Agree:

- i. The Fund will serve program goals and as developed through the COG and its Human Services Subcommittee. The COG will make recommendations to the COUNTY for the expenditure of Fund monies.
- ii. The Fund will not supplant any existing COUNTY programs or funding for homelessness, nor shall monies contributed by the CITY to COUNTY hereunder be diverted or used for other COUNTY programs.
- iii. A citizen review board shall be established by the COG in order to make recommendations concerning how monies contributed to the Fund are spent.
- iv. Funding will be allocated by the parties as a part of their respective annual budgeting processes, and will be available July 1, 2013, and on again on July 1 of any succeeding year of this Agreement.
- v. Outcomes from the Fund programs will be reported at least annually to the COG and the parties.
- vi. Pursuant to section VI. of this Agreement, entitled "Non-funding," nothing in this Agreement shall be construed to bind the decision of the future legislative bodies of either party to continue funding or participation in the Fund.

II. Term and Termination

The term of this Agreement shall commence on July 1, 2013, and shall continue until June 30, 2018. This Agreement may be renewed for subsequent five (5)-year periods at the mutual option of the parties under the same terms and conditions unless modified by Amendment.

The parties each reserve the right to terminate this Agreement, in whole or in part, at any time during the Term or any Subsequent Terms whenever either party determines, in its sole discretion, that it is in its interest to do so. The party electing to exercise this right shall provide written notice to the other party at least 30 (thirty) days prior to the date of termination. Both parties agree that the terminating party's election to terminate this Agreement will not be deemed a termination for default nor will it entitle the other party to any rights or remedies provided by law or this Agreement for breach of contract by the terminating party, or any other claim or cause of action.

### III. No Agency

No agent, employee, or servant of COUNTY or CITY is or shall be deemed to be an employee, agent, or servant of the other party. None of the benefits provided by each party to its employees, including but not limited to workers' compensation insurance, health insurance and unemployment insurance, are available to the employees, agents, or servants of the other party. COUNTY and CITY shall each be solely and entirely responsible for its acts and for the acts of its agents, employees, and servants during the performance of this Agreement. Each Party shall be solely responsible for providing workers' compensation benefits for its own personnel who provide assistance under this agreement.

### IV. Severability

If any term or provision of the Agreement shall to any extent be determined to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those with respect to which it is invalid or unenforceable, shall not be

affected thereby, and shall be enforced to the extent permitted by law. To the extent permitted by applicable law, the Parties hereby waive any provision of law which would render any of the terms of this Agreement unenforceable.

V. Liability and Indemnification.

Both Parties are governmental entities under the Governmental Immunity Act of Utah, (the "Act"), Utah Code Ann. § 63(G)-7-101, *et. seq.* Therefore, consistent with the terms of the Act, the Parties agree that each party is responsible and liable for any wrongful or negligent acts which it commits or which are committed by its agents, officials, or employees. Neither party waives any defenses or limits of liability otherwise available under the Act or any other applicable law, and both Parties maintain all privileges, immunities, and other rights granted by the Act and all other applicable law.

VI. Non-funding

The parties intend to request the appropriation of funds to be paid for the services provided by this Agreement. If funds are not available beyond the last date of each entity's respective fiscal year of any effective fiscal year of this Agreement, either party's obligation for performance of this Agreement beyond that date shall be null and void. This Agreement shall create no obligation on the COUNTY or CITY as to succeeding fiscal years and shall terminate and become null and void on the last day of the fiscal year for which funds were budgeted and appropriated, except as to those portions of payments agreed upon for which funds were appropriated and budgeted. Said termination shall not be construed as a breach of this Agreement or any event of default under this Agreement and said termination shall be without penalty, whatsoever, and no right of action for damages or other relief shall accrue to the benefit of either party, as to this Agreement, or any portion thereof, which may terminate and become null and void. If funds are

not appropriated for a succeeding fiscal year to fund performance by either party under this Agreement, that party shall promptly notify the other party of said non-funding and the termination of this Agreement, and in no event, later than 30 (thirty) days prior to the expiration of the fiscal year for which funds were appropriated.

#### VII. Assignment and Delegation

Neither party shall assign any right nor delegate any duty under this Agreement without the express written and signed consent of the other Party.

#### VIII. Entire Agreement

This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof, and no statements, promises, or inducements made by either party or agents for either party that are not contained in this written contract shall be binding or valid; and this Agreement may not be enlarged, modified, or altered except in writing, and signed by the Parties.

#### IX. Governing Law, No Third Party Beneficiaries, Headings

It is understood and agreed by the parties hereto that this Agreement shall be governed by the laws of the State of Utah, the Ordinances of Salt Lake County, and the Municipal Code of the City, both as to interpretation and performance.

This Agreement is not intended to benefit any third party. The paragraph headings of this Agreement are inserted only for convince, and in no way define, limit, augment or describe the scope or intent of this Agreement not affect its terms and provisions.

#### X. Interlocal Cooperation Act Requirements

In satisfaction of the requirements of the Interlocal Cooperation Act (the "ICA"), Utah Code Ann. §11-13-202, *et. seq.*, and in connection with this Agreement, the parties agree as follows:



- a. This Agreement shall be approved by each party's legislative body pursuant to § 11-13-202.5 of the ICA;
- b. This Agreement shall be reviewed as to proper form and compliance with applicable law by a duly authorized attorney on behalf of each party, pursuant to §11-13-202.5 of the ICA;
- c. A duly executed original counterpart of this Agreement shall be filed with keeper of records of each party, pursuant to §11-13-209 of the ICA;
- d. Except as otherwise specifically provided herein, each party shall be responsible for its own costs of any action done pursuant to this Agreement, and for any financing of such costs;
- e. No separate legal entity is created by the terms of this Agreement; and
- f. The Mayor of Salt Lake County and the Mayor of the City, or their designees, are designated as the joint administrators of this Agreement for all purposes of the ICA, pursuant to §11-13-207(1) of the ICA.
- g. COUNTY shall own all equipment, records and other things used to provide services under this Agreement. Upon termination, all such equipment, records, and other things shall remain the property of COUNTY.

XI. Counterparts

This Agreement may be executed in counterparts by COUNTY and CITY.

SIGNATURES ON NEXT PAGE

IN WITNESS WHEREOF, the parties execute this Agreement effective the 25<sup>th</sup> day of June 2013.

SALT LAKE COUNTY

By \_\_\_\_\_  
Mayor or Designee

ATTEST:

COTTONWOOD HEIGHTS, a Utah municipality

By: \_\_\_\_\_  
Linda W. Dunlavy, Recorder

By: \_\_\_\_\_  
Kelvyn H. Cullimore, Jr., Mayor